

THE HONORABLE DAVID G. ESTUDILLO

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

GAVEN PICCIANO,

Plaintiff,

vs.

CLARK COUNTY, CLARK COUNTY JAIL, and  
NAPHCARE, INC.,

Defendants.

NO. 3:20-CV-06106-DGE

**CLARK COUNTY DEFENDANTS'  
FIRST AMENDED ANSWER TO  
PLAINTIFF'S SECOND AMENDED  
COMPLAINT**

Defendants Clark County and Clark County Jail (hereinafter "Clark County Defendants") answer Plaintiff's Second Amended Complaint as follows:

Introduction. Clark County Defendants admit the plaintiff was in custody at the Clark County Jail. Clark County defendants are without knowledge or information sufficient to form a belief as to the truth of the first five sentences of this paragraph. Clark County Defendants deny the remainder of said paragraph and that the plaintiff is entitled to the relief he seeks.

1. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

2. Admit the first sentence. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining factual allegations of this paragraph and therefore deny the same.

**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 1**

Cause No.: 3:20-CV-06106-DGE

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1 3. Admit the first sentence. Clark County Defendants are without knowledge or  
2 information sufficient to form a belief as to the truth of the remaining factual allegations of this  
3 paragraph and therefore deny the same.

4 4. Clark County Defendants neither admit nor deny as this paragraph makes no factual  
5 allegations against these defendants.

6 5. Clark County Defendants admit it contracted with NaphCare to provide medical services  
7 in the Jail beginning February 1, 2020. The remainder of this paragraph makes no factual  
8 allegations against these defendants and the remainder is neither admitted nor denied on that  
9 basis.

10 6. Clark County Defendants object that this paragraph is argumentative, vague and calls  
11 for a legal conclusion and is denied on that basis.

12 7. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
13 denied on that basis.

14 8. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
15 denied on that basis.

16 9. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
17 denied on that basis.

18 10. Admit.

19 11. Clark County Defendants are without knowledge or information sufficient to form a  
20 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

21 12. Clark County Defendants are without knowledge or information sufficient to form a  
22 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.  
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1 13. Clark County Defendants are without knowledge or information sufficient to form a  
2 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

3 14. Clark County Defendants are without knowledge or information sufficient to form a  
4 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

5 15. Clark County Defendants are without knowledge or information sufficient to form a  
6 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

7 16. Clark County Defendants are without knowledge or information sufficient to form a  
8 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

9 17. Clark County Defendants are without knowledge or information sufficient to form a  
10 belief as to the truth of the remaining factual allegations of this paragraph and therefore deny  
11 the same.  
12

13 18. Admit.

14 19. Admit.

15 20. Clark County Defendants deny the same.

16 21. Admit.

17 22. Clark County Defendants are without knowledge or information sufficient to form a  
18 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

19 23. Admit.

20 24. Clark County Defendants are without knowledge or information sufficient to form a  
21 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

22 25. Clark County Defendants are without knowledge or information sufficient to form a  
23 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.  
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**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 3**

Cause No.: 3:20-CV-06106-DGE

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26. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

27. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

28. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

29. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

30. Admit.

31. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

32. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

33. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

34. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

35. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

36. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

37. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 4**

Cause No.: 3:20-CV-06106-DGE

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1 38. Clark County Defendants are without knowledge or information sufficient to form a  
2 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

3 39. Clark County Defendants are without knowledge or information sufficient to form a  
4 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

5 40. Clark County Defendants are without knowledge or information sufficient to form a  
6 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

7 41. Clark County Defendants are without knowledge or information sufficient to form a  
8 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

9 42. Clark County Defendants are without knowledge or information sufficient to form a  
10 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

11 43. Clark County Defendants are without knowledge or information sufficient to form a  
12 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

13 44. Clark County Defendants are without knowledge or information sufficient to form a  
14 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

15 45. Clark County Defendants are without knowledge or information sufficient to form a  
16 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

17 46. Clark County Defendants are without knowledge or information sufficient to form a  
18 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

19 47. Clark County Defendants are without knowledge or information sufficient to form a  
20 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

21 48. Clark County Defendants are without knowledge or information sufficient to form a  
22 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

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**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 5**

Cause No.: 3:20-CV-06106-DGE

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1 49. Clark County Defendants are without knowledge or information sufficient to form a  
2 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

3 50. Clark County Defendants are without knowledge or information sufficient to form a  
4 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

5 51. Clark County Defendants are without knowledge or information sufficient to form a  
6 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

7 52. Clark County Defendants are without knowledge or information sufficient to form a  
8 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

9 53. Clark County Defendants are without knowledge or information sufficient to form a  
10 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

11 54. Clark County Defendants are without knowledge or information sufficient to form a  
12 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

13 55. Admit.

14 56. Clark County Defendants are without knowledge or information sufficient to form a  
15 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

16 57. Clark County Defendants are without knowledge or information sufficient to form a  
17 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

18 58. Clark County Defendants are without knowledge or information sufficient to form a  
19 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

20 59. Clark County Defendants are without knowledge or information sufficient to form a  
21 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

22 60. Clark County Defendants are without knowledge or information sufficient to form a  
23 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

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26 **CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 6**

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61. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

62. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

63. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

64. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

65. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

66. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

67. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

68. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

69. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

70. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

71. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 7**

**Cause No.: 3:20-CV-06106-DGE**

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72. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

73. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

74. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

75. Deny.

76. Deny.

77. Admit a tort claim was received on or about September 8, 2020.

78. Clark County Defendants incorporate their responses to the preceding paragraphs.

79. Clark County Defendants object that this paragraph calls for a legal conclusion and is denied on that basis.

80. Clark County Defendants object that this paragraph calls for a legal conclusion and is denied on that basis.

81. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

82. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

83. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

84. Clark County Defendants object that this paragraph calls for a legal conclusion and is denied on that basis.

85. Deny.

**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 8**

Cause No.: 3:20-CV-06106-DGE

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1 86. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
2 denied on that basis.

3 87. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
4 denied on that basis.

5 88. Deny.

6 89. Deny.

7 90. Deny.

8 91. Clark County Defendants incorporate their responses to the preceding paragraphs.

9 92. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
10 denied on that basis.

11 93. Clark County Defendants are without knowledge or information sufficient to form a  
12 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

13 94. Clark County Defendants are without knowledge or information sufficient to form a  
14 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

15 95. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
16 denied on that basis.

17 96. Clark County Defendants are without knowledge or information sufficient to form a  
18 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

19 97. Deny.

20 98. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
21 denied on that basis.

22 99. Clark County Defendants are without knowledge or information sufficient to form a  
23 belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

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25  
26 **CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 9**

*LAW, LYMAN, DANIEL,  
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100. Deny.

101. Deny.

102. Clark County Defendants incorporate their responses to the preceding paragraphs.

103. Clark County Defendants object that this paragraph calls for a legal conclusion and is denied on that basis.

104. Clark County Defendants object that this paragraph calls for a legal conclusion and is denied on that basis.

105. Deny.

106. Deny.

107. Clark County Defendants object that this paragraph is argumentative and is denied on that basis.

108. Deny.

109. Deny.

110. Deny.

111. Deny.

112. Deny.

113. Deny.

114. Deny

115. Clark County Defendants incorporate their responses to the preceding paragraphs.

116. Clark County Defendants object that this paragraph calls for a legal conclusion and is denied on that basis.

117. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 10**

**Cause No.: 3:20-CV-06106-DGE**

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1 118. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
2 denied on that basis.

3 119. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
4 denied on that basis.

5 120. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
6 denied on that basis.

7  
8 121. Deny.

9 122. Deny.

10 123. Deny.

11 124. Deny.

12 125. Deny.

13 126. Clark County Defendants incorporate their responses to the preceding paragraphs.

14 127. Admit.

15 128. Deny.

16 129. Deny.

17 130. Deny.

18 131. Clark County Defendants incorporate their responses to the preceding paragraphs.

19 132. Clark County Defendants object that this paragraph calls for a legal conclusion and is  
20 denied on that basis.

21 133. Deny.

22 134. Deny.

23 135. Deny.

24 136. Deny.

25  
26 **CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 11**

Cause No.: 3:20-CV-06106-DGE

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137. Deny.

138. Deny.

139. Clark County Defendants incorporate their responses to the preceding paragraphs.

140. Deny.

141. Deny.

142. Deny.

143. Deny.

144. Deny.

145. Deny.

146. Deny.

147. Deny.

148. Deny.

149. Deny.

150. Clark County Defendants incorporate their responses to the preceding paragraphs.

151. Deny.

152. Deny.

153. Deny.

154. Deny.

155. Clark County Defendants incorporate their responses to the preceding paragraphs.

156. Deny.

157. Deny.

158. Deny.

159. Deny.

**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 12**

**Cause No.: 3:20-CV-06106-DGE**

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160. Deny.

161. Deny.

162. Deny.

163. Deny.

164. Deny.

165. Deny.

166. Deny.

167. Clark County Defendants incorporate their responses to the preceding paragraphs.

168. Deny.

169. Deny.

170. Deny.

171. Deny.

172. Deny.

173. Deny.

174. Deny.

175. Clark County Defendants incorporate their responses to the preceding paragraphs.

176. Clark County Defendants object that this paragraph calls for a legal conclusion and is denied on that basis.

177. Clark County Defendants object that this paragraph calls for a legal conclusion and is denied on that basis.

178. Deny.

179. Clark County Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations of this paragraph and therefore deny the same.

**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 13**

**Cause No.: 3:20-CV-06106-DGE**

*LAW, LYMAN, DANIEL,  
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180. Deny.

181. Deny.

182. Deny.

183. Clark County Defendants incorporate their responses to the preceding paragraphs.

184. Clark County Defendants object that this paragraph calls for a legal conclusion and is denied on that basis.

185. Deny.

186. Deny.

187. Deny.

188. Clark County Defendants incorporate their responses to the preceding paragraphs.

189. Clark County Defendants object that this paragraph calls for a legal conclusion and is denied on that basis.

190. Deny.

191. Deny.

192. Deny.

193. Deny.

Clark County Defendants further deny plaintiff is entitled to the relief he seeks in his Prayer for Relief, lettered a. through g.

By way of FURTHER ANSWER and AFFIRMATIVE DEFENSES, Clark County defendants allege:

1. That the plaintiff has failed to state a claim for which relief can be granted against one or more these defendants.

2. That the public duty doctrine and qualified and/or good faith immunity preclude plaintiffs' state law claims.

3. That the plaintiff's comparative fault proximately caused his damages, if any.

4. That the plaintiff failed to mitigate his damages, if any.

5. That the plaintiff failed to exhaust applicable administrative remedies prior to filing suit.

6. That the plaintiff's damages, if any, were caused by fault of parties not in the control of Clark County Defendants or non-parties not in the control of Clark County Defendants.

7. That the plaintiff's damages, if any, were caused by a preexisting condition.

8. That apportionment of fault under RCW 4.22 applies.

Clark County Defendants expressly reserve the right to amend this Answer, including the addition of affirmative defenses warranted by investigation and discovery, and to make such amendments either before or during trial, including asserting other defense theories or conforming the pleadings to the proof offered at the time of trial.

WHEREFORE, Clark County Defendants pray as follows:

1. That plaintiff's Complaint be dismissed with prejudice and that he take nothing by his Complaint and that Clark County Defendants be allowed their costs and reasonable attorneys' fees herein.

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**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 15**

**Cause No.: 3:20-CV-06106-DGE**

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1 Dated this 8<sup>th</sup> day of February, 2022

2 LAW, LYMAN, DANIEL, KAMERRER  
3 & BOGDANOVICH, P.S.

4 *s/ John E. Justice*

5 John E. Justice, WSBA #23042  
6 Attorney for Defendant Clark County Jail and  
7 Clark County  
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**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 16**

**Cause No.: 3:20-CV-06106-DGE**

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**CERTIFICATE OF FILING & SERVICE**

I certify under penalty of perjury under the laws of the United States of America and the State of Washington that on the date specified below, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which constitutes service on the following parties under LCR 5 as follows:

**Plaintiff's Attorneys:**

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Iain Armstrong  
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Dated this 8<sup>th</sup> day of February, 2022 at Tumwater, Washington.

s/ Tam Truong  
Tam Truong

**CLARK COUNTY DEFENDANTS' FIRST AMENDED  
ANSWER TO PLAINTIFF'S SECOND AMENDED  
COMPLAINT – 17**

Cause No.: 3:20-CV-06106-DGE

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